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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

LARRY WAYNE SWADENER,

Defendant and Appellant.

D053694

(Super. Ct. No. SCN247506)

APPEAL from a judgment of the Superior Court of San Diego County, Aaron H. Katz, Judge. Affirmed.

Larry Wayne Swadener entered a negotiated guilty plea to grand theft automobile (Pen. Code,<sup>1</sup> § 487, subd. (d)(1)). Swadener also admitted he had a prior conviction of vehicle theft within the meaning of section 666.5, subdivision (a) and had two prior prison convictions within the meaning of section 667.5, subdivision (b). Under the plea bargain, the prosecution agreed to dismiss three other prior prison term allegations and

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<sup>1</sup> Statutory references are to the Penal Code unless otherwise specified.

stipulated to a six-year prison term. The trial court sentenced Swadener in accordance with the plea bargain.

The court denied Swadener's request for a certificate of probable cause.

## FACTS

On May 29, 2008, Swadener stole an automobile.

## DISCUSSION

Appointed appellate counsel has filed a brief setting forth evidence in the superior court. Counsel presents no argument for reversal, but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as a possible, but not arguable issue: whether Swadener's guilty plea was constitutionally valid.

We granted Swadener permission to file a brief on his own behalf. He has responded.

Swadener contends that his due process rights were violated because the two attorneys who represented him had a conflict of interest stemming from the position of San Diego County District Attorney Bonnie M. Dumanis as vice-president of the Board of Governors of the State Bar of California. Dumanis's office prosecuted Swadener. This contention is meritless. Swadener has not made any showing that his attorneys had a conflict of interest because of Dumanis's position on the State Bar board, which is separate and unrelated to the Office of the San Diego County District Attorney. Swadener also has failed to show that the effectiveness of the representation provided to him by his defense counsel was compromised in any fashion by their membership in the

State Bar and the fact that Dumanis served as vice-president of the bar's Board of Governors.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issue referred to by appellate counsel, has disclosed no reasonably arguable appellate issue. Competent counsel has represented Swadener on this appeal.

#### DISPOSITION

The judgment is affirmed.

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McCONNELL, P. J.

WE CONCUR:

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McDONALD, J.

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AARON, J.